

RADHA GOVIND UNIVERSITY
RAMGARH, JHARKHAND



SYLLABUS FOR LL.M TWO YEARS DEGREE COURSE
DEPARTMENT OF LEGAL STUDIES

CHOICE BASED CREDIT SYSTEM (CBCS)

RADHA GOVIND UNIVERSITY
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RADHA GOVIND UNIVERSITY
SYLLABUS OF LL.M.
FIRST SEMESTER
COMPULSORY PAPER -I
INDIAN CONSTITUTIONAL LAW

- **Theory of Constitutionalism** : Concept Context and Content; Constitutionalism in India
- **Federalism:** Concept of Federalism, Indian Constitution and its Federal Nature, Comparative Study with USA and Australian pattern,, Comparative Federalism.
- **Distribution of Legislative Power:** The scheme of the distribution of legislative powers in India and a comparative study of the scheme of U.S.A. and Australia. The judicial approach and the present position in Indian Context. Recommendation of Sarkaria Commission & Venkatachaliah Commission, Punchhi Commission
- **The Judiciary:** Independence of Judiciary and the Nature of Judicial Process, Decision Making in the Supreme Court, Judicial Activism , Accountability
- **Right to Equality:** Scope of the right to Equality. New approach of Article 14. Equality of opportunity in matters of public employment and in admission to educational institutions.
- **Freedom of Speech and Expression:** The area of freedom and its limitation. Freedom of Press and challenges of new scientific development.
- **Emerging regime of new Fundamental Rights:** The changing dimension of right to life and Personal Liberty. Reading Directive Principles and Fundamental Duties into Fundamental rights.
- **Right to Freedom of Religion:** The scope of the freedom and the State Control. Secularism and religious fanaticism.

OPTIONAL PAPER -I
INDIAN CONSTITUTIONAL LAW

UNIT –I : Constitutionalism And Constitutional Development in India and England

- What is Constitution? Constitution, Constitutional Law and Constitutionalism. Concept of limited Government and limitations on government power, Conventions of Constitutionalism – Law and conventions. Historical evaluation of Constitutional government in India and England.
- Rule of Law. Concept and new horizons ; Separation of powers. Concept and its applicability in India and England .
- Sovereignty of British Parliament, Powers and Functions Privileges of the Parliament and Courts – Indian and British position.
- The King of England Prerogatives of the Crown. Position of King in England, Cabinet System of government in India and England.
- The Judicial System in England. Crown Proceeding Act 1947. Judicial Review and Constitutionalism in India. Prerogative writs.

UNIT – II : Comparative and Cooperative Federalism.

- Concept of Federalism. Requisite conditions of federalism patterns of federal government of U.S.A. and Australia. Federal Control v. State autonomy.
- Indian Federal Constitution and its present shape.
- The changing dimension of modern federal Constitutions New trends in federalism. National supremacy. Cooperative federalism.
- The scheme of the distribution of legislative powers in India and a comparative study of the scheme of U.S.A. and Australia. The specific legislative powers: Defense and External Affairs.
- Emergency provisions. Effect of emergency on the federal structure, Judicial approach, Indian and American experiences.
- Judicial review for federal Umpiring. Scope of judicial review in the federal Constitutions. The approach of Indian and American Supreme Court.
- Scope of Constituent power. Amending process and process in action . Judicial response. The direction of the Indian Constituent power.

UNIT – III : Civil And Political Rights : Comparative Study Of Select Constitution (Indian , United States Of America And United Kingdom)

- Constitutional basis for protection of individual rights. Balance between individual liberty and social needs. To whom and against whom Rights are available. Suspension of Rights.
- Right to Equality. General Principles. Protective discrimination with special references to emerging judicial response to the problems of group inequalities. Comparative study of the decisions of the Indian and American Courts.
- Freedom of Speech and Expression: Special attention will be paid to the liberty of press as interpreted by the Indian Supreme Court and to the interpretation of the freedom guaranteed by the First American of the American Constitution.
- Right to life and Personal Liberty: Judicial determination of the scope of the term “Personal Liberty” , “Procedure Established by law” and the American expressions “liberty” and “due process”. Radical changes in judicial thinking in this area.
- Freedom of Religion judicial interpretation of the freedom under the Constitution of India and of the United States.
- Amendment of Rights: Adaptability of the Constitutional law to the changing needs of the society. Power and Procedure for amendments of these rights under the American and Indian constitution.
- Elections and the Franchise: Constitutional foundation of the right to vote. The voting rights Acts. Judicial supervision of Elections.

Suggested Readings :

- U. Baxi, The Indian Supreme Court and Politics (1980), Eastern, Lucknow.
- H.M. Seervai, Constitutional Law of India (1991), Tripathi, Bombay.
- Sudha Bhatnagar, Union-State Financial Relations and Finance Commissions, (1979)
- Ashok Chandra, Federalism in India, (1965)
- V.D. Sebastian, Indian Federalism: The Legislative Conflicts Chs. 6-7 and 8 (1980).
- Chandrapal, Centre-State Relations and Cooperative Federalism, Chs. 5 and 8 (1983)

- G.C.V. Subba Rao, Legislative Powers in Indian Constitution Law, Chs. 37, 38, 39 (1982)
- Richard M. Pious, The American Presidency, 293-331, Ch. 9 (1979)
- Daniel J. Elazar, American Federalism, Chs. 3 and 4 (1984)
- K.P. Krishna Shetty, The Law of Union-State Relations and the Indian Federalism Ch.
- M.P. Jain, Indian constitutional Law (1994), Wadhwa.
- Judicial Activism in India : Transgressing Borders and Enforcing Limits : S. P. Sathe, OUP India, Paperback-November 6, 2003.
- The Indian Constitution : Cornerstone of a Nation (Law in India S.) : Granville Austin, OUP India, Paperback-October 1999.
- Subverting the Constitution : G. G. Mirchandani, Abhinav Publications, Paperback-June 16, 2003.
- Justice V. R. Krishna Iyer on Fundamental Rights and Directive Principles : S. Chander, Deep & Deep Publications. Hardcover-September 1, 2002.
- The Constitution of India : V. Grover, Deep & Deep Publications, Hardcover-September 1, 2002
- The Indian Constitution and International law (International Law in Asian Perspective) : P. Chandrasekhara rao, Brill, Hardcover-January 1995.

OPTIONAL PAPER -II

FAMILY LAW

Unit I: Hindu Law including Hindu Jurisprudence

1. Basic Principle of Hindu Jurisprudence
2. Sources of Hindu Law
3. Concept of Marriage under Hindu Law
4. Matrimonial Remedies
 - a) Nullity of Marriage
 - b) Restitution of Conjugal Rights
 - c) Judicial Separation
 - d) Divorce
5. Changing Concept of Adoption: From religious to secular
6. Inheritance
 - a) Historical perspective
 - b) Succession to property of a Hindu male dying intestate under the Hindu Succession Act, 1956.
 - c) Devolution of Interest in Mitakshara Coparcenary under the Hindu Succession Act.1966.
 - d) Succession of property of Hindu female dying intestate.
 - e) General principle of Succession.
7. Minority & Guardianship under the Minority & Guardianship Act, 1956.
8. Maintenance of wife, children, Parents.
9. Joint family & coparcenary

Unit II- Muslim Law including Muslim Jurisprudence

1. Basic Principle of Muslim Jurisprudence
2. Sources of Muslim Law
3. Schools of Muslim Law
4. Law of Marriage
5. Law of Dower
6. Maintenance
7. Divorce under Muslim Law
8. Dissolution of Muslim Marriage Act.
9. Paternity & legitimacy

10. Law of Inheritance
11. Uniform Civil Code

Unit III Christian & Parsi and Jews Laws Christian & Parsi Law of Marriage , Divorce and Successions

1. Essentials of Marriage
2. Divorce
3. Nullity of marriage
4. Judicial Separation
5. Alimony
6. Custody of Children
7. Intestate succession of Parsis
8. Intestate succession other than Parsis

OPTIONAL PAPER -III

LAW OF TORTS

Unit I: Development of Law of Torts and Tort actions generally.

1. Evolution of Law of Torts
2. Definition, nature, scope and objects
3. Principles of liability in torts
4. Justification in Tort
5. Extinguishment of liability in certain situations
6. Standing
7. Vicarious liability
8. Doctrine of sovereignty and its relevance in India.
9. Absolute Strict liability
10. Legal Remedies

Unit II. Specific Torts- I

1. Assault, batter, mayhem False imprisonment
2. False imprisonment
3. Defamation
4. Malicious prosecution
5. Trespass to land, trespass to goods, detinue, conversion.
6. Injurious falsehood, misstatements, passing off

Unit III- Specific Torts II

1. Negligence:
 - (a) Basic concepts
 - (b) Theories of negligence
 - (c) Standards of care, duty to take care carelessness, inadvertence
 - (d) Doctrine of contributory negligence
 - (a) Res ipsa loquitor and its importance in contemporary law
 - (b) Liability due to negligence-different professionals.
 - (c) Liability of common causes for negligence.
2. Nervous shock.
3. Nuisance: definition, essentials and types
4. Acts which constitute nuisance-obstructions of highways, pollution of air, water, water, noise, and interference with light and air.

5. Liability due to negligence- different professions- under the consumer protection Act.

6. Liability of manufacturers and business houses for their products under the consumer Protection Act.

OPTIONAL PAPER- IV:
CRIMES CRIMINOLOGY AND PENOLOGY

Unit 1.Criminology- Definition, Nature, Scope and utility

Unit 2.Methods of Criminological Studies

Unit 3.Schools of Criminology: Classical, Biological Cartographic, Sociological and Socialist.

Unit 4.Theorising Criminal aetiology : Lombroro and Neo- Lombrosian, Psycho-analysis, Differential Association, Anomie Tradition; Critical Criminology with reference to Labeling, Interactionism and Conflict Theory

Unit 5.A brief discussion on Modern Trends in Criminology: Phenomenology, Postmodernism and Feminism Crime and Feminism.

Unit 6.Punishment: Concept and Theories

Unit 7.Death Sentence

Unit 8.Treatment of offenders: Prison, Probation and Parole

Unit 9.Victimology.

SECOND SEMESTER

COMPULSORY PAPER –II

LEGAL EDUCATION AND RESEARCH METHODOLOGY

Unit –I: Research:

- Conceptual Understanding and Objectives
- Types of Research- Fundamental, Applied, Empirical, Conceptual, Exploratory and Explanatory
- Approaches of Research-Qualitative, Quantitative, Pragmatic, Participatory
- Doctrinal and Non-Doctrinal Research

Unit –II : Key Factors in Socio-Legal Research :

- Etic and Emic Perspective in Research
- Reflexivity in Social Research
- Relevance of Cultural Relativism in research
- Avoiding Ethnocentrism in Research
- Ethics and Moral in Conducting Research-Intellectual Property Right Issues, Informed Consent, Confidentiality and Privacy, Plagiarism and other malpractices
- Jurimetrics : Concept and Aspects

Unit –III :Research Techniques :

- Inductive and Deductive Method of Research
- Cross-Cultural Comparison
- Historical Method
- Triangulation Technique
- **Survey:** Concept, Types, Difference with ethnographic research methods, Merits and Demerits
- PRA/PLA and RRA
- Projective Testing Techniques
- Judicial Impact Assessment
- Research Design :Basic Concept and Types, Major Steps in formulating Research design

- Sampling: Basic Understanding, Merits, Demerits and its basic types
- Data Collection Techniques: Observation, Interview, Schedule, Questionnaire, Case study, Library Method, Genealogical Table Method
- Quantative Analysis of Data
- Qualitative Analysis of Data

Unit -IV : Research Methodology :

- Hypothesis: Concept and its importance in research
- Pilot Study
- Concept Mapping
- Rapport Establishment
- Relevance of Bibliographical and Literature Review (including juristic literature and decisional material which have not been over-ruled)

Report Writing:

Key factors that must be taken in to consideration while preparing dissertation/research report.

- Ahuja, Ram: Research Methods, Rawat Publications, Jaipur, India.
- Bernard, H Russell: Research Methods in Anthropology: Qualitative And Quantitative Approaches, Rowman Altamira.
- Bernard, H. Russell: Social Research Methods: Qualitative and Quantitative Approaches, SAGE Publications.
- Colman, Andrew M. and Briony D. Pulford: A Crash Course in SPSS for Windows: Updated for Versions 14, 15, and 16, John Wiley & Sons.
- Cooley, Linda: Dissertation Writing in Practice-Turning Ideas Into Text, Hong Kong University Press.
- Danda, Ajit K.: Research methodology in anthropology, Inter-India Publications.
- Ember, Carol R. and Melvin Ember: Cross-Cultural Research Methods, Rowman Altamira.
- Fischer, Michael D.: Applications in Computing for Social Anthropologists, Routledge Publication.

- Goode, William Josiah and Paul K. Hatt: *Methods in Social Research*, Mc Graw Hill.
- Hinton, Mark Justice :*Windows 7 For Seniors For Dummies*, John Wiley & Sons.
- Johnson, Steve: *Microsoft Windows 7: Complete*, Cengage Learning.
- Kirkpatrick, Lee A. and Brooke C. Feeney: *A Simple Guide to SPSS: For Version 17.0*, Cengage Learning.
- Lecompte, Margaret D. and Jean J. Schensul: *Designing & Conducting Ethnographic Research: An Introduction*, Rowman Altamira.
- Madrigal, Lorena : *Statistics for Anthropology*, Cambridge University Press.
- Mc Conville, Michael and Wing Hong Chui: *Research Methods for Law*, Edinburgh University Press.
- Mills,W. R.: *Microsoft Windows 7a Beginner's Guide*, Author House.
- Murray Michael D. and Christy Hallam De Sanctis: *Legal research methods*, Foundation Press.
- Murray, Robert Thomas and Dale L. Brubaker: *Theses and Dissertations-A Guide to Planning, Research, and Writing*, Green wood Publishing Group.
- Murray, Rowena :*How to Writea Thesis*, McGraw-Hill International.
- Pallant, Julie: *SPSS Survival Manual: A step by step guide to data analysis using SPSS*, Mc Graw-Hill International.
- Pelto P. Jand G. HPelto: *Anthropological Research: The Structure of Inquiry*, Cambridge University Press.
- Poggie, John J. and Billie R. De Walt: *Anthropological Research: Processand Application*, SUNY Press.
- Shelly, Gary B. and Misty E. Vermaat: *Microsoft Office 2010-Introductory*, Cengage Learning.
- Shoup, Kate : *Office 2010 Simplified*, John Wiley & Sons.
- Stanek,William:*Windows 7: The Definitive Guide*, O'Reilly Media, Inc.
- Starr, June and Mark Goodale: *Practicing Ethnography in Law: New Dialogues, Enduring Methods*, Palgrave Macmillan.
- Swetnam, Derek: *Writing Your Dissertation-Howto Plan, Prepare and Present Your Work Successfully*, How To Books Ltd.
- Wang,Wallace:*Office2010 For Dummies*, John Wiley & Sons.

- Young, V. Pauline : Scientific Social Surveys And Research, Phi Learning.
- Ethanol Production Incentives, 2007
- [Tariff Policy](#), 6 January 2006, amended 2011
- [National Electricity Policy](#), 3 February 2005
- National Auto Fuel Policy, 2003

Suggested Readings :

- Verheyen Roda, *Climate Change Damage and International Law: Prevention Duties and State Responsibility*, Martinus Nijhoff Publishers (2007)
- Lavanya Rajamani & Shibani Ghosh, [India](#), in CLIMATE CHANGE LIABILITY, 139-77 (Richard Lord et al. eds., Cambridge University Press 2011).
- [Indian Climate Change Policy](#) (Exploring a Co-Benefits Based Approach)
- Dubash, Navroz K., D. Raghunandan, Girish Sant, and Ashok Sreenivas. "Indian Climate Change Policy Exploring a Co-Benefits Based Approach." *Economic and Political Weekly* (n.d.): n. pag. *Epw.in*. Economic and Political Weekly, 1 June 2013. Web.
- [The Challenge of Environmental Regulation in India](#)
- Mejia, Robin. "The Challenge of Environmental Regulation in India." *Environmental Science and Technology* (2009): n. pag. *Pubs.acs.org*. ACS Publications, 9 Nov. 2009. Web.
- [A Review of Energy Conservation Initiatives by the Government of India](#)
- Nandi, P., and S. Basu. "A Review of Energy Conservation Initiatives by the Government of India." *Renewable and Sustainable Energy Reviews* 12.2 (2008): 518-30. Print.
- [Adaption to Climate Change in India](#)
- Ganguly, Kaushik, and Gyana Ranjan Panda. "Adaptation to Climate Change in India: A Study of Union Budgets." *Oxfamindia.org*. Oxfam, May 2010. Web.
- [U.S.-India Partnership to Advance Clean Energy: A Progress Report](#) (June 2012)
- [India's Response to Climate Change: The 2009 Copenhagen Summit and Beyond](#)
- Saha, Autri, and Karan Talwar. *India's Response to Climate Change: The 2009 Copenhagen Summit and Beyond*. 2009. 159-90. *HeinOnline*. Web.
- Rosencranz, Armin, Dilpreet Singh, and Jahnvi G. Pais. "Climate Change Adaptations,

[Policies, and Measures in India.](#)" *Climate Change Adaptations, Policies, and Measures in India*. N.p.: Georgetown Environmental Law Review, 2010. 575-90. *HeinOnline*. Web.

- [Wold, Chris, David Hunter, and Melissa Powers. "India's Evolving Climate Change Strategy."](#) *Climate Change and the Law*. Newark, NJ: LexisNexis Matthew Bender, 2009. N. pag. Print.

OPTIONAL PAPER -V
INTERNATIONAL LAW

- Historical Introduction an introduction to the international legal system, The use of force and development and enforcement of international law
- Sources of International Law formation and ascertainment of customary international law; treaties and other special commitments; general principles; acts of international organisations; unilateral acts; hierarchy of and relation between sources of law (obligations ergaomnes, peremptory norms (jus cogens), etc).
- International Law in Domestic Courts the constitutional framework; justifiability and act of state doctrine; treaties and customary international law in the cases before the domestic courts; international law in specific domestic practice areas (with special reference to Indian Judicial Approach).
- Persons Statehood (creation, continuity and extinction); governments; representation of people; recognition; international organisations (status and personality); self-determination; other subjects of international law (groups, individuals, etc); continuity of legal personality.
- Jurisdiction and Immunity extent and limits on state jurisdiction; exclusivity of jurisdiction; enforcement jurisdiction and its alternatives (intervention, etc); jurisdiction over international spaces; immunities from jurisdiction
- Responsibility basis of responsibility; the ILC Articles on State Responsibility; claims; remedies, especially countermeasures; responsibility of international organisations.

Suggested Readings :

- Arend, Anthony Clark and Robert J. Beck, International Law and the Use of Force: Beyond the UN Charter Paradigm (Routledge, New York, 1993).
- Arend, Antony, Clark and Robert J. Beck, International Law and the Use of Force: Beyond the UN Charter Paradigm (Routledge, New York, 1993).
- Anghie, Antony, Imperialism, Sovereignty, and the Making of International Law (Cambridge University Press, Cambridge, UK, 2004).
- Balkrishna, Rajgopal, International Law from Below: Development, Social Movements and Third World Resistance (Cambridge University Press, UK, 2004).
- Brierly, J. L., Law of Nations: An Introduction to the Law of Peace, 6th ed (Oxford University Press, London, 1998).

- Brownlie, Ian, Principles of International Law, 5th ed (Oxford University Press, London, 1998).
- Chesterman, Simon, Just War or Just Peace? Humanitarian Intervention & International Law (Oxford university press, 2001)
- Chimni, B. S., International Law and World Order: A Critique of Contemporary Approaches (Safe, New Delhi, 1993)
- Conforti, Benedetto, The Law and Practice of the United Nations (Martinus Nijhoff Publishings, 2005).
- Cherhine, North and Fawcett, James, Private International Law (Carruther Jawrr, Oxford, 2008). 21. Dixit, R.K. & Jayaraj, C, Dynamics of International Law in the New Millennium (Manak Publications, New Delhi,
- Dixit, R.K. , Shankardass, R.K.P., Jayaraj, C & Sinha, Manoj K., International Law: Issues and Challenges(ISIL & Hope India Publications, New Delhi, 2009)
- Govindraj, V. C., Conflict of Laws in India-Interterritorial and Inter-personal Conflicts (Oxford University Press, New Delhi, 2011)
- Green, L. C., International Law through the Cases, 3rd ed (Stevens and Sons, London, 1970).
- Harris, D. J., Cases and Materials on International Law, 6th ed (Thomson and Sweet and Maxwell, London, 2004).
- Nirmal B C, *The right to self-determination in international law: evolution, U.N. law and practice, new dimensions*, Deep & Deep Publications, , 2007,

OPTIONAL PAPER- VI
CONTRACT AND INSURANCE

Unit 1 : General Principles of Contract.

1. Formation of Contract: A critical study of offer and acceptance.
2. Doctrine of Consideration and Privity of Contract
3. Capacity to contract: Nature of minor's agreements and the doctrine of restitution.
4. Consent: Meaning, importance and the factors vitiating free consent with special reference to Fraud and Misrepresentation.
5. Standard form Contracts.
6. Void Agreements: With special reference to agreements relating to restraint of trade and wagering agreements.
7. Discharge of contracts with special reference to the doctrine of frustration.
8. Relations resembling those created by contract.
9. Remedy in the form of compensation.

: Insurance

1. Nature and definition of Contract of Insurance.

- (a) Definition of Contract of Insurance.
- (b) Contract is 'Aleatory'
- (c) Contract of utmost good faith.
- (d) Contract of indemnity.
- (e) Contract of Wager.

2. Insurable interest:

- (a) Nature of insurable interest
- (b) Time or duration of interest
- (c) Insurable interest and Life insurance.
- (d) Insurable interest and Fire insurance.

3. The Risk:

- a) Meaning of risk
- b) Scope of risk
- c) Application of rule in various classes of insurance
- d) The elements of risk
- e) The alteration of the risk

4. The Insurance Regulatory and Development Authority:

a) Establishment

b) Composition

c) Duties, powers and functions.

OPTIONAL PAPER VII:
ADMINISTRATIVE LAW

Unit 1.: Administrative Law In India

- (1) Importance and Scope of Administrative Law;
- (2) Rule of Law;
- (3) Separation of Powers;
- (4) Delegated Legislation:
 - a. Constitutionality;
 - b. Judicial Control;
 - c. Parliamentary Control;
 - d. Procedural Control
- (5) Ombudsman in India
- (6) The Commission of Inquiry Act, 1952.

Unit 2 : Administrative Law in India-II

- (1) Judicial Review of Discretionary Power;
- (2) Writ of Mandamus;
- (3) Writ of Certiorari;
- (4) Writ of Prohibition
- (5) Writ of Quo-warranto
- (6) Nature Justice: Bias, Opportunity of Hearing;
- (7) Administrative Tribunals;
- (8) Domestic Inquiries;
- (9) Administrative Finality;
- (10) Role of Declaratory Decree as Public Law Remedy;
- (11) Role of Injunction as Public Law Remedy;

OPTIONAL PAPER-VIII:
LABOUR MANAGEMENT RELATIONS

Unit 1.: Regulation of Labour Management Relations.

1. Meaning, Nature and Philosophy of Labour Management Relations.
2. An Historical and Constitutional perspective of Labour Management Relations
3. State Regulatory process of Labour Management Relations in India.
4. Labour Management Regulatory processes in U.K. and USA- Its impact on India.
5. Labour Management Relations and collective Bargaining.
6. The New Economic policy and its impact on Labour Management Relations in India
7. Some recent trends to regulate the Labour Management Relations.

Unit 2 : Comparative Study of the Law Relating to Trade Unions.

1. Meaning, Concept and Nature of Trade Unions.
2. Evolution origin and growth of Trade Unions
 - a) U.S.A.
 - b) U.K.
 - c) India
3. Legal Basis of Trade Unions
 - a) U.S.A.
 - b) U.K.
 - c) India
4. Collective Bargaining and its Status
 - a) U.S.A.
 - b) U.K.
 - c) India
5. Trade Unions and the Right to Strike
6. Recent Judicial trends in the Law Relating to Trade Unions
7. Globalization, privatization and its impact on the working of the Trade Unions.

Unit 3 : Law Relating to Employment and Non Employment

1. Meaning and Concept of Employment
2. Wages and Conditions of Service
3. Termination of Employment
4. Termination of other than Dismissal
5. Dismissal for Misconduct

Unit 4 : Law Relating to terms of Employment and Conditions of Service

1. Meaning and concept of terms of Employment and conditions of service
2. The term of employment or the conditions of labour of any person.
 - a) continuity of service
 - b) per permanency of tenure of service
 - c) Transfer
3. Hours of Work
4. Work loads
5. Shifts
6. Promotions
7. Increments
8. Fringe benefits
9. Refusal benefits

THIRD SEMESTER

COMPULSORY PAPER -III

LAW AND SOCIAL TRANSFORMATION IN INDIA

1. Law and social change :

- Law as an instrument of social change.
- Law as the product of traditions and culture.
- Criticism and evaluation in the light of colonization and the introduction of common law system and institution in India and its impact on further development of law and legal institution in India.

2. Religion and the law :

- Religion as a divisive factor.
- Secularism as a solution to the problem Reform of the law on secular lines: Problems. Freedom of religion and non-discrimination on the basis of religion.
- Religious minorities and the law

3. Language and the Law :

- Language as a divisive factor: Formation of linguistic states. Constitutional guarantees to linguistic minorities. Language policy and the constitution: Official language, multi-language system. Non-Discrimination on the ground of language

4 Community and the law :

- Caste as a divisive factor Non-discrimination on the ground of caste Protective discrimination: Scheduled castes, tribes and backward classes.
- Reservation: Statutory commissions, Statutory Provisions.

5. Regionalism and the law :

- Regionalism as a divisive factor Concept of India as one unit Right of movement, residence and business; impermissibility of state or regional barriers. Admission to educational institutions: Preference to residents of a state

1. Law and Gender Justice

2. Modernization and the law :

- Modernization as a value: Constitutional Modernization of social institutions

through law

3. Alternative approaches to law The jurisprudence of Sarvodaya – Gandhiji, Vinoba Bhave, Jayprakash Narayan – Surrender of dacoits; Concept of Grama Nyayalayas. Socialist thought on law and justice: An enquiry through constitutional debates on the right to property.
4. Indian Marxist critique of law justice.
5. Naxalite movement: causes and cure

Suggested Readings :

- March Galanter (ed.), Law and Society in Modern India (1997), Oxford
- Robert Lingat, The Classical Law of India (1998), Oxford.
- U.Baxi, The Crisis of the Indian legal system (1998) Vikas, New Delhi.
- U. Baxi, (ed) Law and Poverty Critical Essays (1988), Tripathi, Bombay
- Munushi, A. Journal about Women and Society • Duncan Derret, The State, Religion and Law in India (1996) Tripath

OPTIONAL PAPER IX:

TAXATION

Unit 1.: Constitutional and Administrative Law Problems Relating to Taxation:

1. Distinction between Tax and Fee
2. Power to levy taxes on income
3. Power to levy Excise Duties
4. Taxes on Sale or Purchase of Goods
5. Residuary Power of Taxation Under Entry 97 of the Union List
6. Role of Taxation in achieving the Objectives of Directive Principles
7. Taxation and Right to Equality
8. Taxation and Freedom of Trade, Commerce and Intercourse
9. Distribution of Tax Revenues
10. Inter-Governmental Tax Immunities
11. Delegation of Taxing Powers
12. Judicial Review of the Orders of Tax Authorities.

Unit 2 – Tax on Business & Industry

- (1) Residence of Firms
- (2) Residence of Company
- (3) Business Connection
- (4) Profits and gains from business or Profession
- (5) Depreciation allowance
- (6) Business Expenditure Capital Gains
- (11) Income-tax authorities & their powers with special reference to search & Seizure
- (12) Procedure for assessment
- (13) Appeal & Revision.

Unit 3 - Current Tax Problems:

- (1) Assessment of Charitable Trusts
- (2) Service Tax
- (3) Tax on Agricultural income.

- (4) Canons of Taxation & characteristics of a good tax system.
- (5) Tax evasion & Black money- Causes & effects of Tax Evasion, Tax evasion distinguished with Tax Avoidance and Tax Planning.
- (6) Problems of Double Taxation.
- (7) Sales Tax- its effect & desirability – Value Added Tax.

Unit 4: Tax Accountancy

1. Computation of Income under the head Salaries;

- (i) Meaning of salary
 - (ii) Deductions under Section 16
 - (iii) Valuation of Perquisites:
 - (a) Valuation of Rent free accommodations
 - (b) Valuation of Accommodation provided on concessional rates
 - (c) Valuation of Motor Car facilities provided by the employer
 - (iv) Perquisites and Allowances exempted from taxation
 - (v) Taxation of Gratuity and Terminal payments:
 - (a) Received by Government employees
 - (b) Received under the Payment of Gratuity Act, 1972.
 - (c) Compensations received under Industrial Disputes Act.
3. Computation of Income under the Head Income from House Property:
- (i) Determination of Annual Value
 - (ii) Concessions for newly constructed properties
 - (iii) Annual value of self occupied House Property.
 - (iv) Deductions from income from House Property.
4. Computation of Income under the head Profits and Gains of Business or Profession:
- (i) General principles governing assessment of business income
 - (ii) Basic principles governing admissibility of deductions under Sections 30 to 40 D
 - (iii) Computation of some specific deductions:
 - (a) Rent, rates, taxes, repairs and insurance of building (S.30)
 - (b) Repairs and insurance of machinery, plant and furniture (S.31)
 - (c) Depreciation Allowance (S.32)

(d) Rehabilitation Allowance

(e) Expenditure on Scientific Research

(f) Expenditure on acquisition of patent rights or copy rights.

5. Computation of Income under the head Capital Gains:

(i) Computation of Long term and short term capital gains on transfer of capital assets.

(ii) Exemptions from capital gains.

6. Computation of income under the head Income from other sources:

(i) Receipts which are taxable under the head income from other sources

(ii) Taxation of winning from lotteries, crossword puzzles, races, card games etc.

(iii) Deductions under the head Income from other sources.

OPTIONAL PAPER X:
ADMINISTRATION OF JUSTICE

Unit 1.: Law Relating to Jurisdiction and Systems of Courts in India.

1. Administration of Justice in Madras, Bombay and Calcutta up to 1726.
2. Mayor's Court, 1726.
3. Adalat System and its Re-organization.
4. Supreme Court created under the Regulating Act, 1773.
5. High Courts created under the Indian High Courts Act, 1861.
6. Privy Council
4. Federal Court under the Govt. of India Act, 1935.
5. High Court and Supreme court under the Constitution of India.
6. Sub-ordinate Civil Judicature and Criminal Judicature.
7. Village Panchayat Courts
8. Revenue Courts
9. New Dispute Redressal Machinery: Lok-Adalats, Family Courts and Tribunals. e.g. CAT

Unit 2 : Law Relating to Procedure and Proof:

A. Civil:

1. Jurisdiction of Civil Courts and Place of Suing
2. Res Sub-judice, Res Judicata and Foreign Judgment
3. Suit – Institution of, Essentials of, Parties of; Representative Suit and Special Suits e.g. against Government, Minors lunatics and indigent
4. Pleadings – Complaint and Written Statement
5. Issue – Meaning, Framing, kinds and importance
6. Withdrawal and Compromise of Suits
7. Effect of Death, Marriage and Insolvency of Parties
8. Trial, Judgment, Decree and its execution
9. Appeal, Reference, Review and Revision
10. Inherent Powers of Courts

B. Criminal :

1. General principles relating to Fair Trial

2. Classes of Criminal Courts and Powers
3. Arrest, Search and seizure
4. Investigation by Police
5. Local Jurisdiction of Courts and cognizance
6. Bail
7. Withdrawal of Criminal Case
8. Charge and Trial
9. Appeal, Reference and Revision
10. Execution, Suspension, Remission and Commutation of Sentence

C. Proof:

1. Nature and Function of Law of Evidence
2. Relevancy of Facts and Admissibility
3. Proof and Burden of Proof

Unit 3 : Law Relating to Relief

1. Constitutional Relief: writs- Habeas, corpus, Mandamus, certiorari Prohibition and Quo-warranto.
2. Recovery of Possession- Movable and immovable property. 3. Specific Performance of Contract
4. Rescission of contract
5. Rectification & cancellation of Instruments
6. Declaration Decree
7. Preventive Relief- Injunctions
7. Damages: Types, Remoteness and Measure of Damages
8. Bar on Relief: General Law relating to limitation

OPTIONAL PAPER XI:
ENVIRONMENTAL LAW

Unit 1: International Environmental Law

1. Basic features of International Environmental Law and its evolution.
2. The landmarks in International Environmental Law- a Journey from Stockholm to Johannesburg
3. Important conventions concerning Protection and Conservation of Environment: Vienna Convention and Protocol on the Depletion of Ozone Layer, Convention and Protocol on Climate Change, Chemical Weapons convention, Basel Convention, , and Regulation of Hazardous Waste Convention on Biological Diversity
4. Regulation of Transboundary pollution with special reference to Industrial Accidents and Air Pollution.
5. Impact of International Environmental Law on Indian Law with special reference to Principles of Environmental Protection.

Unit 2 : Natural Resource and the Law in India

1. Protection of Wild Life- with special reference to authorities, sanction and remedies under Wild Life (Protection) Act, 1972.
2. Protection and conservation of Forest- with special reference to Authorities, sanctions and remedies under Forest Act, 1927 and Forest Conservation Act, 1980.
3. Conservation of Fresh water and Ground water. Coastal Zone Management under the Environment (Protection) Act, 1986 and other relevant Statutes.
4. Protection and Conservation of Biodiversity with special reference to Biodiversity Act 2002.
5. The scope and Limit of PIL to protect the natural resources- (Special emphasis shall be placed on directions issued by the Supreme Court of India from time to time).

Unit 3 : Pollution Control Laws in India

1. Constitutional Mandate and Environment with special reference to Article 32 and 226. (emphasis shall be given on use of PIL as a tool to provide environmental justice)
2. Comparative Study of Water Act, 1974, the Air Act, 1981 and the Environment (Protection) Act, 1986 with special reference to authorities mechanism and sanctions

3. Efficacy of Remedies – Section 133 Criminal Procedure Code, Public Liability Insurance Act, 1991, National Environmental Tribunal Act, 1995, National Environment Appellate Authority Act, 1997, Citizens’ Suit provisions, remedies under Civil Procedure Code, 1908.
4. Specific Environmental Problems and Legal Responses- special emphasis shall be placed on rules and notification framed under the Environment (Protection) Act, 1986. (Rules and Notifications shall be prescribed each year)
5. Environment Impact Assessment and People’s Participation, EIA and Public Hearing under **the Environment Protection Act, 1986.**

Suggested Readings :

- Birnie, P. and Boyle, A. E.(2002) *International Law and the Environment*, 2nd edition, Oxford: Oxford University Press.
- Sands Phillippe, Jacqueline Peel, Adriana Fabra Aguila ,(2012), *Principles of International Environmental Law*, Oxford: Oxford University Press.
- Weiss, Edith Brown. "International Environmental Law: Contemporary Issues and the Emergence of A New World Order." *Georgetown Law Journal*, Vol. 81, No. 3 (March, 1993): pp. 675-710.
- Petsonk, Carol Annette. "Role of the United Nations Environment Programme (UNEP) in the Development of International Environmental Law." *American University Journal of International Law and Policy*, Vol. 5, No. 2 (1990): pp. 351-392.
- Schrijver Nico, *Sovereignty Over Natural Resources Balancing Rights and Duties* , Cambridge University Press (2008).
- Robinson F Daniel, *Biodiversity, Access and Benefit- Sharing: Global Case Studies*, Routledge (2015)

OPTIONAL PAPER XII:

ALTERNATE DISPUTE RESOLUTION SYSTEM

Unit 1 : Domestic and International Commercial Arbitration.

- (i) Existing Justice Delivery System in India- Effectiveness and Menances
- (ii) Reform in the Legal System for Achieving Effective and Speedy Resolution of Dispute.
- (iii) Historical Background of the Arbitration Arbitration Agreement
- (iv) Composition & Jurisdiction of Arbitral Tribunal
- (v) Conduct of Arbitral Proceedings
- (vi) Making of Arbitral Award and Termination of Proceedings
- (vii) Recourse Against Arbitral Award.
- (viii) Finality & Enforceability of Arbitral Award.
- (ix) Appealable Orders & Miscellaneous provisions.

Unit 2 : Enforcement of Foreign Award and Conciliation in India.

- i. Enforcement of Foreign Award under New York Convention Award.
- ii. Enforcement of Foreign Award under Geneva Convention Award.
- iii. Meaning of Conciliation Commencement of Conciliation Proceedings and appointment of Conciliator.
- iv. Statements to Conciliation(s)
- v. Role of Conciliator(s)
- vi. Conduct of Conciliation Proceeding
- vii. Settlement agreement & its Status and Effect.
- viii. Protection for conciliation Proceeding
- ix. Public Interest Litigation.
- x. Liberalization of Locus Standi Doctrine
- xi. (b) Dilution of Ubi Jus Ibi Remidium Doctrine Paper

Unit 3 : Mediation, Lok Adalats and Consumer Forums etc.

- (i) Various Modes and Processes of Alternative Dispute Resolution System.
- (ii) Meaning of Mediation- Distinction between Arbitration, Conciliation

and Mediation and negotiation. Interest Based Versus Right Based Mediation.

(iii) Conduct of Mediation Proceeding

(a) Opening Statement of Mediator

(b) Opening Statement of Party.

(iv) Mediation Agreement or Termination of Mediation Proceeding.

(v) Common Error of Mediation Advocacy.

(vi) Lok Adalats: Temporary and Permanent.

a) Constitution, Jurisdiction, Powers

b) Procedure Remedy Provided.

(vii) Consumer Forums under the Consumer Protection Act.

(a) Constitution, Jurisdiction, Power and Procedure.

(b) Remedy Provided.

(viii) Administrative Tribunals.

FOURTH SEMESTER

COMPULSORY PAPER -IV

JUDICIAL PROCESS WITH PROFESSIONAL ETHICS & PROFESSIONAL ACCOUNTS SYSTEM.

Unit 1. The concept of justice and relation between Law and Justice. the concept of ‘Dharma’ in Indian thought. ‘Dharma’ as the foundation of legal ordering. Various theories of justice in the Western thought.

Unit 2. The nature of Judicial Process. Judicial process as an instrument of social ordering. Judicial process and creativity in law. The tools and techniques of judicial creativity and precedents.

Unit 3. Judicial Process in India. Indian debate on the role of judges and on the notion of judicial review. Danger signals and New challenges before the Indian Judiciary.

Unit 4. Independence of judiciary and the nature of judicial process. Provisions of the Indian Constitution guaranteeing Independence of judiciary. Attitude of confrontation with the Legislature & Executive. Appointment & transfer of judges and its effect on independence of judiciary.

Unit 5. Judicial Activism and Constitutional obligations of the court. Evolution of the concept. Reasons in defense of judicial activism. Constitution of India and judicial activism. Role played by the Supreme Court of India. The tools and techniques of the judicial activism. Need for care and caution.

Unit 6. Decision making in the Supreme Court of India: Nature of participation- Dissent, concurrence, unanimity and voted with majority etc.

DISSERTATION

Every student enrolled in the LL.M. programme, shall have to mandatorily submit a concierge search dissertation (not exceeding 150 pages) at least a fortnight before the commencement of end semester examination of the 4th semester. The dissertation shall carry weight age equivalent to two theoretical papers.

VIVA – VOCE

It will be taken by the external examiner and should be concerning topic of dissertation.